

REMARKS

As of the date of the Office Action mailed April 14, 2009 ("Office Action"), Claims 1-42 were pending in this application. In the Office Action, claims 1-42 were objected to, and claims 1-22, 24 and 26-29 were rejected. Claims 1-42 have been amended in the present amendment.

Drawings

In the Office Action, page 2, the drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(4) based on the assertion that character "20" was used to reference barrier panel and rainscreen panels. Applicant believes the objection is based on the following phrases recited on page 7 of the original specification, at line 14 "*the panels 10 and 20*", at line 19, "*screens 10 and 20*", and at line 31 "*the panels 10 and 20*". As reflected in the substitute specimen submitted herewith, Applicant has amended each of the above phrases to read "*the air barrier panels 10 and the rain barrier panels 20*" in order to clarify that reference numeral 10 refers to the air barrier panels and that reference numeral 20 refers to the rain barrier panels. Applicant respectfully submits that the drawings are correct and, with entry of the above-referenced amendments, requests withdrawal of the objection.

Claim Objections

In the Office Action, claims 1-42 were objected to based on various informalities. With respect to the objections based on spellings of the terms "equalization", "equalize" and "centre," Applicant respectfully submits that these terms are spelled correctly based on standard English language dictionaries. Applicant submits that 37 C.F.R. §1.52(b)(1)(ii) only requires the application to be in the English language and that there is no additional requirement that the English must be American English (see MPEP 608.01). With respect to the objection to the terms "rainscreen" and "strandboard", these terms have been amended to recite the hyphenated forms "rain-screen" and "strand-board," respectively.

With respect to the preamble of claims 2 to 22, 24-25, 27 and 31 to 42, the respective preambles have been amended to read "The rain-screen apparatus" and "The method", as suggested in the Office Action. With respect to claim 30, the preamble has been amended to read "A method of constructing a rain-screen apparatus according to claim 1..." in order to clarify that this claim only refers to Claim 1. Accordingly, Applicant submits that the claims are in proper form and respectfully requests withdrawal of the objections.

Section 112 Rejections

In the Office Action, claim 16 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses the rejection. Applicant has amended claim 16 to delete the phrase “or the like” from the claim. It is submitted that, in light of this amendment, claim 16 is in compliance with 35 U.S.C. §112, second paragraph. Applicant respectfully requests withdrawal of the rejection.

Section 102(b) Rejections

In the Office Action, claims 1-3, 5-6, 9, 11-14, 17, 22 and 26-29 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 4,114,334 to Thoren (“Thoren”). Applicant respectfully traverses the rejections. Applicant respectfully submits that Thoren does not disclose a rain-screen apparatus having the feature as currently claimed in independent claim 1 of a “sealing means adapted to provide substantial pressure equalisation within the clearance space”. It is an advantage of the claimed invention to provide substantial pressure equalisation within the clearance space as it acts as a barrier to inhibit the ingress of wind forced rain.

In contrast, Thoren relates to a building component used to provide heat insulation for a wall of a building. The building component of Thoren requires that a “pressure differential” is maintained across the wall (Thoren, Col. 4, line 49), not a “pressure equalization” as recited in Applicant’s claim 1. The pressure differential created by the building component of Thoren produces an air flow which enhances the building insulation and thereby reduces the loss of heat from a room.

To achieve this air flow, the building component of Thoren has an air-impermeable first layer (21) and an air-permeable second layer (23) which is spaced from the first layer to form an air space between these layers. Thoren, Col. 4, lines 39-43. The air-permeable layer (23) forms an air distribution layer which serves to produce a relatively small but distinct resistance to air flow through the layer and thereby to produce a pressure differential. Thoren, Col. 4, lines 45-49. In order to create the best possible heat-insulating effect, the air-permeable second layer (23) or air distribution layer is configured to produce an air flow that is uniformly distributed over the entire area of the wall insulation. Thoren, Col. 4, lines 54-59. To further enhance the air flow through the building component and, more particularly, through the air-permeable second layer

(23), the air space is connected to a fan (38) which sucks air through the porous layers of the building insulation and subsequently blows it out into the room as preheated ventilation air. *Thoren*, Col. 7, lines 65-Col. 8, line 1.

For the reasons set out above, it is submitted that *Thoren* does not disclose each of the limitations of Applicant's rain-screen apparatus as presently claimed. In particular, it is submitted that *Thoren* does not disclose the feature of a "sealing means adapted to provide substantial pressure equalisation within the clearance space", as claimed. For the foregoing reasons, Applicant respectfully requests that the Section 102(b) rejections of the claims be withdrawn.

Claim rejections under 35 USC § 103

In the Office Action, claims 4, 7-8, 10, 15, 16 and 18-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Thoren*. Applicant respectfully traverses the rejection. Applicant respectfully submits that for at least the reasons set out above in respect of the novelty rejections, the present invention as claimed in each of the claims would not have been obvious to a person of ordinary skill in the art at the time the invention was made. As set out above, it is submitted that the present invention is directed towards the problem of trying to provide a pressure-equalised rain-screen which inhibits the ingress of wind forced rain into a building structure. In contrast, *Thoren* relates to a building component used for providing heat insulation to a building.

The claimed invention is based on equalising the pressure in the clearance space between a rigid air barrier and an external rain-screen panel. A sealing means is provided which allows the clearance space between the air barrier and the rain-screen panel to be effectively sealed along the side and upper edges and "provide substantial pressure equalization" within the clearance space. Therefore, there is no pressure differential to force water such as raindrops carried by wind to enter the spaces behind the rain-screen and thus from entering the building structure.

In contrast, the building component of *Thoren*, as set forth above, relies on a pressure differential, more particularly a uniform pressure differential, to create an airflow in the air space between its air impermeable layer and its air permeable layer. The air permeable layer resists air flowing into the air space and thus creates the desired pressure differential. A fan is connected to

the air impermeable layer and is configured to draw the air from the air space and blow it into the room as preheated ventilation air.

Accordingly, it is clear that Thoren does not seek to address the problems associated with wind forced rain entering building structures. A person of ordinary skill in the art of the claimed invention would not have considered Thoren as relevant to the problem of trying to inhibit the ingress of wind forced rain, as discussed in the present specification and addressed by the invention as presently claimed. In fact, Thoren *teaches away* from an equalised pressure building component. As such, a person of ordinary skill in the art would not have had recourse to the disclosure of Thoren or have been otherwise motivated to consider this document in order to address the problem of wind forced rain entering a building structure.

For the reasons set out above, it is submitted that the present invention would not have been self-evident to a person of ordinary skill in the art at the time the invention was made. The Thoren reference is directed towards solving different technical problems. As such, a person of ordinary skill in the art would not have been motivated to consider Thoren when faced with the problem of trying to prevent ingress of water driven rain. In any event, the combination of features of the invention as presently claimed is not taught, suggested or otherwise motivated by the disclosure of Thoren.

For all the reasons set forth above, Applicant respectfully requests withdrawal of the rejections under Section 103 and allowance of all pending claims.

CONCLUSION

In light of the amendments and remarks set forth above, Applicant respectfully submits that the application is now in allowable form. Accordingly, Applicant respectfully requests consideration and allowance of the currently pending claims. Applicant petitions for a three-month extension of time and submits payment in the amount of \$1,110.00 for a three month extension of time fee. It is believed that no additional fees are due at this time. If this is incorrect, Applicant hereby authorizes the Commissioner to charge any fees, other than issue fees, that may be required by this paper to Deposit Account No. 07-0153. The Examiner is respectfully requested to call Applicant's Attorney for any reason that would advance the current application to issue.

Respectfully submitted,

/Jason R. Fulmer/

Jason R. Fulmer, Registration No. 46,715

Gardere Wynne Sewell LLP

1601 Elm Street, Suite 3000

Dallas, Texas 75201-4761

Telephone: 214.999.4487

Facsimile: 214.999.3487

jfulmer@gardere.com

ATTORNEYS FOR APPLICANT

October 14, 2009